

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

**BLUE CROSS BLUE SHIELD OF
MISSISSIPPI, A MUTUAL INSURANCE
COMPANY**

PLAINTIFF

V.

CIVIL ACTION NO.: 3:13CV655 HTW-LRA

**GOVERNOR PHIL BRYANT, in his
Capacity as Governor of the State of
Mississippi**

DEFENDANT

**MOTION OF THE INSURANCE COMMISSIONER
OF THE STATE OF MISSISSIPPI TO INTERVENE**

Comes now the Honorable Mike Chaney, Commissioner of Insurance of the State of Mississippi, pursuant to Rule 24 of the Federal Rules of Civil Procedure and moves the Court to allow his intervention in the above styled and numbered cause and would show unto the Court as follows:

1. Pursuant to F.R.C.P. 24(a)(2), the Commissioner is entitled to intervene in this proceeding because he has an interest relating to the subject of this action, and is so situated that disposing of the action may as a practical matter impede his ability to protect that interest.

2. The Party Plaintiff in this proceeding has an interest in protecting private contract rights threatened by Executive Order 1327 proclaimed by the Defendant on October 22, 2013. However, the Party Plaintiff does not share the overriding governmental interest of the Commissioner of Insurance which is threatened by the Executive Order. The Executive Order illegally usurps the powers of the Commissioner of Insurance and the

Mississippi State Department of Insurance into the Office of the Governor. Such an arrogation of power is unprecedented in the history of the State of Mississippi. A copy of Executive Order 1327 is attached to this motion. After several pages of “Whereas” clauses, the order declares in paragraph 1, page 5 that “the Department of Insurance shall promptly” perform duties delegated to that Department by Legislature. It is the Legislature that provides in Miss. Code § 83-1-1:

There is hereby continued a separate and distinct department of insurance, which shall be charged with the execution of all laws, (except as otherwise specifically provided by statute) now in force, or which may hereafter be enacted, relative to all insurance and all insurance companies, corporations, associations, or orders. (Emphasis added)

There is no statute which specifically provides otherwise. However, there is a statute, Miss. Code § 7-1-5, which prescribes the powers and duties of the Governor and nowhere in that statute is the Governor empowered to direct the Commissioner of Insurance or the Department of Insurance to undertake any act or conduct any hearing. Subsection (h) of that statute recites that the Governor “may require the attorney general, or district attorney of any district, to inquire into the affairs or management of any corporation,” but not to require the Commissioner of Insurance to do so. In 2011, 202,201 citizens of the State of Mississippi elected Mike Chaney to the office of Commissioner of Insurance. It is his duty to fulfill the functions of that office and to withstand the illegal attempt to usurp the powers of that office and arrogate them unto the Governor.

3. This motion is timely filed.

Attached hereto is the pleading which sets forth the claim for which intervention is sought as required pursuant to F.R.C.P. 24(c).

WHEREFORE, the Commissioner of Insurance of the State of Mississippi moves the Court to allow his intervention in this proceeding and to file the pleading attached hereto.

Dated: October 24, 2013.

Respectfully submitted,

MIKE CHANEY, COMMISSIONER
OF INSURANCE OF THE STATE OF
MISSISSIPPI

By: /s/ John G. Corlew
JOHN G. CORLEW

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CERTIFICATE OF INSURANCE

I hereby certify that on October 24, 2013, I electronically filed the foregoing with the Clerk

of the Court using the ECF system which sent notification of such filing to the following:

Cheri D. Green

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R. David Kaufman

dkaufman@brunini.com, rharrell@brunini.com

Harold Edward Pizzetta, III

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and I hereby certify that I have mailed by United States Postal Service the document to the following non-ECF participants:

None.

/s/ John G. Corlew

JOHN G. CORLEW